



October 3, 2000

Mr. Robert L. Kane
Office of General Counsel
University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2000-3805

Dear Mr. Kane:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 139835.

The University of Texas System (the "university") received a request for information pertaining to "the Faculty Grievance Committee" and "[c]orrespondence between Dr. Baird, Interim Director of the Division of Mathematics and Statistics, and the President, Provost, or Associate Vice President for Faculty Affairs, during June and July of 2000." You state that the information pertaining to the Faculty Grievance Committee will be provided to the requestor. You claim, however, that the correspondence relating to the mathematics and statistics division is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters because disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. See Open Records Decision No. 615 at 5 (1993). However, an agency's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. See Open Records Decision No. 631 at 3 (1995). Additionally, section 552.111 does not except from

disclosure purely factual information that is severable from the opinion portions of internal memoranda. *See* Open Records Decision No. 615 at 5 (1993).

You argue that the submitted documents constitute internal communications containing advice, opinions, and recommendations regarding institutional policy matters. In support of your section 552.111 claim, you state the following:

The Division of Mathematics and Statistics is currently under direct management by the Provost, who is in the process of developing a restructuring plan. That plan has not yet been completed, and the Provost, in considering various options, has solicited the opinion of the current Interim Division Director as to the best way to proceed. The Director's response is being studied in relationship to other ideas. Once the Provost has determined how best to proceed, he will be preparing a final recommendation for the President's review and approval.

After considering your arguments and reviewing the submitted information, we agree that the information relates to the policymaking functions of the university. Therefore, you may withhold the information pursuant to section 552.111.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one


of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Reagan Watson", followed by a horizontal line.

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/pr

Ref: ID# 139835

Encl. Submitted documents

cc: Dr. Alvaro Arias
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(w/o enclosures)